AG Contract No. KR98-1454TRN
ADOT File No. JPA 98-83
TRACS No.: H 5099 01C
Project: Salt River North Bank Protection
Section: Pima Freeway -1800' Downstream
of Alma School Road
IGA FCD-98013
C69-99-085-2

INTERGOVERNMENTAL AGREEMENT
AMONG
THE STATE OF ARIZONA
THE FLOOD CONTROL DISTRICT OF MARICOPA COUNTY
AND
THE SALT RIVER PIMA MARICOPA INDIAN COMMUNITY

THIS AGREEMENT is entered into 24 June, 1999 pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, among the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "STATE"), the FLOOD CONTROL DISTRICT OF MARICOPA COUNTY, acting by and through its BOARD OF DIRECTORS (the "DISTRICT") and the SALT RIVER PIMA MARICOPA INDIAN COMMUNITY, acting by and through its COMMUNITY COUNCIL (the "COMMUNITY").

I. RECITALS

1. The STATE is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the STATE.

2. The DISTRICT is empowered by Arizona Revised Statutes Section 48-3603 to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the DISTRICT.

3. The COMMUNITY is empowered by Constitution and has by resolution of the Salt River Pima-Maricopa Indian Community Council, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the COMMUNITY.

4. Incident to the STATE's construction of the Red Mountain Freeway (SR-202L) between the Pima Freeway (SR 101L) and Alma School Road, the DISTRICT, and the COMMUNITY have agreed to contribute to the cost-sharing, design, construction, construction management and operation and maintenance of the Salt River North Bank Protection from the Pima Freeway to 1800 feet downstream of Alma School Road, hereinafter referred to as the Project. Project limits are shown on Exhibit "A", attached hereto and made a part hereof.

NO. 23314
Filed with the Secretary of State
Date Filed: 06/24/99
Betsey Bayless
Secretary of State
By Vicky V. Gruenewald

5. The DISTRICT has agreed to operate and maintain the Salt River between 40th Street and the Pima Freeway, if certain conditions are met by the responsible parties, per intergovernmental agreements FCD-87051/JPA 88-07, FCD-87052/JPA 88-06, FCD-87053/JPA 88-05, FCD-89025 and FCD-94001/JPA 93-86. The DISTRICT has also agreed to operate and maintain the south bank of the Salt River adjacent to the Project, if certain conditions are met by the responsible parties, per an intergovernmental agreement between the STATE and the DISTRICT, dated April 26, 1996, ECS File No. JPA 95-77, DISTRICT No. FCD-95005.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The STATE will:

a. Upon completion of construction and acceptance of the Project by the DISTRICT, grant to the DISTRICT, by permit, access over property controlled by the STATE, from public right of way, at no cost to the DISTRICT. The permitted access shall be provided along the east side of the Pima Freeway, adjacent to the STATE drainage channel, as shown on Exhibit "A", or at a location approved in writing by the DISTRICT.

2. The COMMUNITY will:

a. Serve as the lead agency and be responsible for the design, construction, construction management, right of way acquisitions, and utility relocations for the Project.

b. Be responsible for providing the design plans, specifications, and other documents that are required for the construction of the Project. Design criteria provided by the DISTRICT and shown in Exhibit "B", attached hereto and made a part hereof, shall be used to design the Project. In addition, criteria in the DISTRICT document "Bed Scour or Fill Monitoring for Bank Stabilized Channels in Maricopa County" shall be used for the design..

c. Provide the DISTRICT design data, calculations, preliminary plans and specifications for the Project, prior to finalization, for DISTRICT review and comment. The COMMUNITY will resolve and/or incorporate the DISTRICT comments into the final design plans and specifications.

d. Provide final plans and specifications to the DISTRICT for review and approval prior to advertisement for construction of the Project. Provide to the DISTRICT a copy of all final design reports, analyses and studies, final Record Drawings and survey notes for construction of the Project. Survey notes will be sealed by a Registered Land Surveyor.

e. Be responsible for filing the Conditional Letter of Map Revision/Letter of Map Revisions and other necessary documentation with the Federal Emergency Management Agency (FEMA) for the delineation of the Project. Provide to the DISTRICT copies of all information required by FEMA.

f. Obtain all federal, state and/or local permits necessary for the implementation of the Project, except STATE access permit obtained by DISTRICT as provided below. Permits will allow for operation and maintenance of the Project for a minimum of 5 years, which is the current maximum maintenance period allowed by the U.S. Army Corps of Engineers (COE) Section 404 permits. If a Section 404 permit becomes necessary for maintenance of the Project in the future, as determined by the COE, the COMMUNITY, shall acquire the necessary permit. As the DISTRICT will be unable to operate and maintain the Project legally, the DISTRICT will be relieved of this responsibility until the

permit is acquired. Repair of damage to the Project due to the inability to legally operate and maintain the Project during any time without a Section 404 permit shall be the responsibility of the COMMUNITY.

g. Upon completion of construction and acceptance of the Project by the DISTRICT, grant to the DISTRICT a license/permit for access to, and operation and maintenance of, the Project, from public right of way, at no cost to the DISTRICT. The license/permit shall provide for access from McKellips Road at approximately the Dobson Road alignment and the Longmore Road alignment, as shown on Exhibit "A", or as approved in writing by the DISTRICT.

h. Maintain a restrictive excavation (mining) area, prohibiting excavation below the design invert grade, as shown on the Project plans, within the river, and prohibiting excavation to 50 feet north of the proposed hard bank toe, angling downward at a 1.5 to 1 slope, as shown on Exhibit "C", attached hereto and made a part hereof.

i. Grant to the DISTRICT the licensing/permitting authority for all future modifications, construction, or uses within the Project.

j. Be responsible for the maintenance of non-flood control protection features, as determined by the DISTRICT, included with the Project.

k. Coordinate with the DISTRICT any and all proposed future modifications, construction, or uses with the Project and receive written concurrence from the DISTRICT. The DISTRICT will be responsible for granting licenses or permits for all modifications, access or construction activities within the completed Project, to the extent such rights are granted to the DISTRICT by the COMMUNITY.

3. The DISTRICT will:

a. Reserve the right to review, comment on and approve the design plans and specifications for the Project.

b. Reserve the right to inspect the Project construction and accept, in writing, the completed Project.

c. Obtain a STATE access permit necessary for the operation and maintenance of the Project.

d. Operate and maintain the flood control features of the Project, as determined by the DISTRICT, if construction of the Project is accepted by the DISTRICT, in writing upon the granting of the permits for the operation and maintenance to the DISTRICT by the STATE and the COMMUNITY and upon the COMMUNITY maintaining a restrictive excavation (mining) area, per this agreement. The DISTRICT will be the licensing/permitting authority for all future modifications, construction, or uses within the Project.

III. MISCELLANEOUS PROVISIONS

1. Any party to this agreement may with mutual written agreement of all parties, delegate responsibilities to another party. Any delegation, however, shall not relieve the delegating party of its original responsibility as defined herein.

2. All parties to this agreement shall take reasonable and necessary actions within their authority to assure that any water discharged into the Salt River complies at the point of discharge with any applicable requirements of the Clean Water Act, National Pollutant Discharge Elimination System (NPDES), or any other applicable discharge requirements, including any permit requirements.

3. Both the DISTRICT and the COMMUNITY (indemnitors) shall, to the extent permissible by law, indemnify, defend and save harmless the others (indemnitees.) including agents, officers, directors, governors and employees thereof, from and against any loss or expense incurred as a result of any claim or suit of any nature whatsoever, which arises out of indemnitor's negligent or wrongful acts or omissions, pursuant to this Agreement. such indemnification obligation shall encompass any personal injury, death or property damages resulting from the indemnitors negligent or wrongful acts or omissions, as well as reasonable attorney's fees, court costs, and other expenses relating to the defense against claims or litigation, incurred by the indemnitee. Indemnitee shall be liable for their own negligence or wrongful acts as provided by law.

4. This agreement shall become effective upon filing with the Arizona Secretary of State.

5. This agreement shall remain in force and in effect until completion of said Project, , except any provision herein for maintenance, which shall continue for a period of fifty (50) years from the effective date of this agreement. This agreement may be amended upon mutual written agreement or terminated as noted herein.

6. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511 pertaining to conflicts of interest on behalf of STATE or DISTRICT employees.

7. The provisions of Arizona Revised Statutes Section 35-214 pertaining to audit are applicable to this contract.

8. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

9. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Mail Drop 616E
Phoenix, AZ 85007

Flood Control District of Maricopa County
Chief Engineer and General Manager
2801 W. Durango St.
Phoenix, Arizona 85009

Salt River Pima Maricopa Indian Community
10005 E. Osborn Road
Scottsdale, AZ 85256

10. Each party to this agreement will pay for and not seek reimbursement for its own personnel and administrative costs associated with this Project, including but not limited to the following unless specifically identified in this agreement: design, land acquisition, inspection, public involvement, permitting, management and administration and operation and maintenance.

11. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under their respective laws to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

FLOOD CONTROL DISTRICT OF MARICOPA COUNTY
a Municipal Corporation and Political
Subdivision of the State of Arizona

Recommended:

By: _____ 4/4/99
MICHAEL S. ELLEGOOD, P.E. (DATE)
Chief Engineer and General Manager

Approved and Accepted:

By: _____ 5/5/99
(date)
Chairman, Board of Directors

Attest:

By _____ 5/5/99
Clerk of the Board (date)

The forgoing Intergovernmental Agreement IGA FCD-98013, has been reviewed pursuant to Arizona Revised Statutes 11-952, as amended, by the undersigned General Counsel, who has determined that it is in proper form and within the powers and authority granted to the Flood Control District of Maricopa County under the laws of the State of Arizona.

By _____ 4/5/99
District, General Counsel (DATE)

SALT RIVER PIMA MARICOPA INDIAN COMMUNITY

By _____
IVAN MAKIL
President

ATTEST

By _____
LONITA JIM
Community Council Secretary

STATE OF ARIZONA
Department of Transportation

By _____
VICTOR M. MENDEZ, P.E.
Deputy State Engineer

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SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY
10,005 East Osborn Road
Scottsdale, Arizona 85256

RESOLUTION NUMBER: SR-1886-99

WHEREAS, the State of Arizona ("State"), with construction of the Red Mountain Freeway (SR-202L) has constructed bank protection along the North Bank of the Salt River between McClintock Drive and the Pima Freeway (SR-101L); and

WHEREAS, the Salt River Pima-Maricopa Indian Community desires to extend the Salt River North Bank Protection from the Pima Freeway east to approximately 1800 feet west of Alma School Road; and

WHEREAS, the State, through its Settlement Letter with the Salt River Pima-Maricopa Indian Community dated January 21, 1999, agrees to a payment of $1.2 million dollars for construction of said Salt River North Bank Protection; and

WHEREAS, the Flood Control District of Maricopa County ("District") agrees to participate in the design, construction management, operation and maintenance of the Salt River North Bank Protection from the Pima Freeway to 1800 feet west of Alma School Road; and

WHEREAS, the Salt River Pima-Maricopa Indian Community Council has reviewed the proposed Intergovernmental Agreement between the State, the District, and the Salt River Pima-Maricopa Indian Community providing for the design, construction, operation, and maintenance of the Salt River North Bank Protection and approves of the terms and conditions contained therein.

NOW THEREFORE BE IT RESOLVED by the Salt River Pima-Maricopa Indian Community Council that it authorizes the President or Vice President to execute the Intergovernmental Agreement for and in behalf of the Community, and to take all steps reasonably necessary to, and in aid of, carrying out the purpose and intent of this Resolution.

C_E_R_T_I_F_I_C_A_T_I_O_N

Pursuant to the authority contained in Article VII, Section 1(h) of the Constitution of the Salt River Pima-Maricopa Indian Community, ratified by the Tribe, February 28, 1990, and approved by the Secretary of the Interior, March 19, 1990, the foregoing resolution was adopted this 10th day of February, 1999, at a duly called meeting held by the Community Council in Salt River, Arizona at which a quorum of 6 members were present by a vote of 6 for; 0 opposed; 2 excused; 1 absent.

SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY COUNCIL

Ivan Makil, President

ATTEST:

Lonita Jim, Secretary

JPA 98-83

RESOLUTION

BE IT RESOLVED on this 10th day of June 1998, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the Salt River Pima Maricopa Indian Community and the Flood Control District of Maricpa County, for the purpose of defining responsibilities for their respective duties for the Salt River North Bank Protection.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Deputy State Engineer for approval and execution.

DAVID ALLOCCO, acting Manager
Engineering Technical Group

for MARY E. PETERS, Director

EXHIBIT "A" IGA FCD 98013

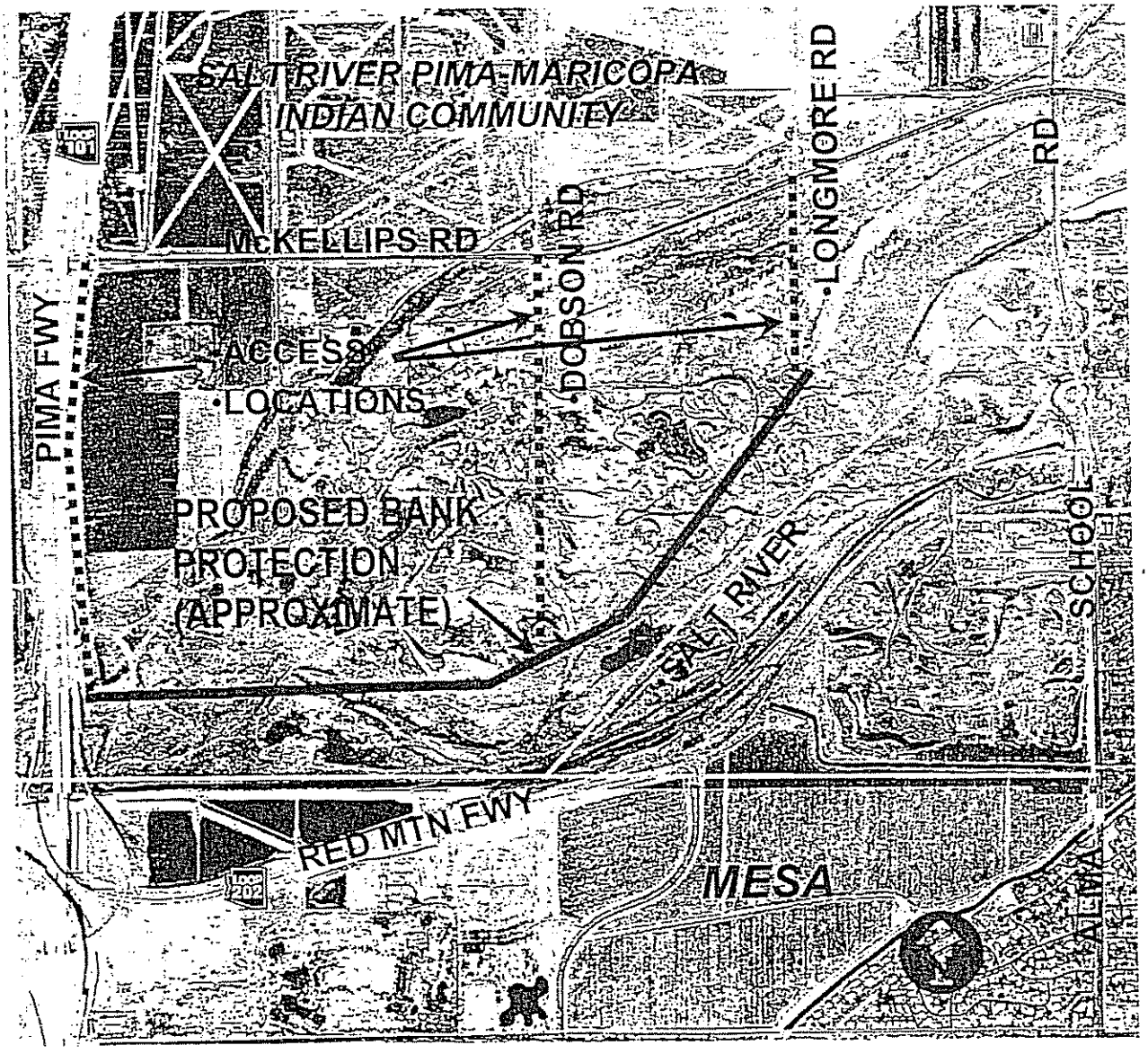

EXHIBIT "B" IGA FCD 98013

January 21, 1998

CHANNEL DESIGN CRITERIA FOR MAJOR WATERCOURSES*

1. All geotechnical test results shall be provided for District review. Gradation data shall be obtained that is representative of the full depth of the moveable bed. The District's rule of thumb for bore hole/test pit intervals is a minimum of one per 500 feet. If an armoring analysis is to be presented for review, gradation test results for the channel bed samples shall include the percentages of the 3-inch plus material encountered.

2. The geotechnical exploration shall determine if landfill or hazardous material deposits are present within the channel alignment, and if so, their impacts on channel design and costs.

3. If existing gravel pits are to be filled, gradation specs shall be required for the material that is to be placed in the moveable bed zone.

4. Levees shall be designed to conform to FEMA freeboard criteria, 100-year frequency peak flow with three (3) feet of freeboard plus one (1) additional feet at bridges. In non-levee conditions a minimum of one (1) feet of freeboard shall be provided.

5. HEC-II or HEC-RAS shall be used to perform water surface profile calculations, unless the District agrees to another method. A hard copy and floppy disk with input and output files shall be submitted for District review.

6. The location of cross sections used in the water surface profile calculations shall be provided on a scaled map.

7. The final plans shall include profiles showing the top of levee protection, HGL, invert, and the low chords for all bridges.

8. Tributary (side) drainage to the channel shall be addressed such that the more severe of the following conditions govern: 1) 100-year frequency peak in the main channel with 10-year frequency peak tributary drainage or 2) 10-year frequency peak in the main channel with the 100-year frequency peak tributary drainage.

9. Consideration shall be given to the upstream and downstream river and floodplain conditions and how those conditions may impact the proposed channel. Existing and potential material extraction and landfill operations shall be addressed in this context. Overbank flooding upstream of the channelization shall be analyzed to ensure that those flows enter and are contained within the improved channel. The design and analysis shall address the potential impacts of known future modifications that may be proposed by others.

10. Maintenance access and channel invert access ramps shall be incorporated into the design.

11. The scour analysis shall be performed using an analytical approach based on the velocity associated with the 100-year frequency peak flow, the depth of the thalweg, and the soil gradation of the channel bed materials.

12. Degradation and aggradation analyses shall include factors for dunes and antidunes.

13. The depth of scour, measured from the low-flow thalweg invert elevation, shall be used to determine the toe-down elevations for bank protection based on the 100-year frequency peak flow.

14. Local scour calculations shall be provided for review. These calculations are to be tabulated at all critical design locations and presented with a map showing the locations.

15. Levee slope stability and embankment settlement analyses shall be submitted for District review. The analyses shall consider pore pressure caused by rapid draw down. The loading conditions for stability analysis and their appropriate safety factors shall be those in US Army Corps of Engineers EM-1110-2-1913, Table 6.1. Seepage analysis shall be performed for levees without soil cement lining in which the uplift pressure at the toe of the embankment at the land side shall be determined, and seepage exit gradients checked for piping potential"

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* Design Criteria to be used for Flood Control District of Maricopa County designed, funded or maintained projects.

16. Provide calculations to show that the type of bank protection (riprap, gabions, etc...) is suitably sized to resist hydraulic forces at the design frequency peak flow.

17. All hydraulics and structural calculations performed to substantiate the design of slope or channel stabilization shall be provided for District review.

18. A person at least as competent as the designer shall independently check all calculations before submitting them to the District. Both the designer and checker shall initial and date each page of calculations that is submitted.

19. Minimum factors of safety for scour and forces on structures shall be 1.5 based on the 100-year frequency peak flow.

20. Permissible velocity method of natural channel design will only be used for preliminary design purposes. Tractive shear stress approach shall be used in a more detailed design to confirm the stability of the unlined channel .

ANALYTICAL APPROACH FOR DETERMINING REQUIRED TOE DEPTHS FOR BANK PROTECTION

The following analytical approach shall be utilized for determining required toe depths for bank protection:

1. Contraction Scour (includes General Scour), in the vicinity of bridge crossings and river sections that have been constricted due to landfill or any other type of encroachment shall be computed by methods described in Federal Highway Administration, FHWA, Hydraulic Engineering Circular Nos. 18 and 20, and other publications deemed appropriate for the 100-year frequency flow. General scour for unconstricted reaches is to be quantified by computer models for flows representing a hydrological history, as described in Item 3 below, and shall be supplemented with hand calculations.

2. Bed-form scour, due to the passage of dunes or antidunes, shall be computed from analytical relationships developed by investigators such as Yalin and Kennedy, as described in textbooks on sediment transport technology. The maximum hydraulic parameters associated with the passage of a 100-year frequency peak shall be used to establish the quantitative values for this scour component.

3. Long-term Aggradation/Degradation shall be computed by using the concept of equilibrium slope or the concept of streambed armoring, depending on which approach controls the long-term channel profile. The equilibrium slope concept shall utilize a sediment transport relationship, which incorporates the D_{50} and gradation of the streambed sediment. The streambed-armoring concept shall utilize the critical tractive shear stress approach and the representative (armor) particle size. A series of flood frequency hydrographs from 10 to 100-year shall be used to represent the hydrologic history that the structure may experience in its life as a basis for determining these long-term trends. The "dominant" discharge shall generally be assumed to be the 10-year frequency discharge.

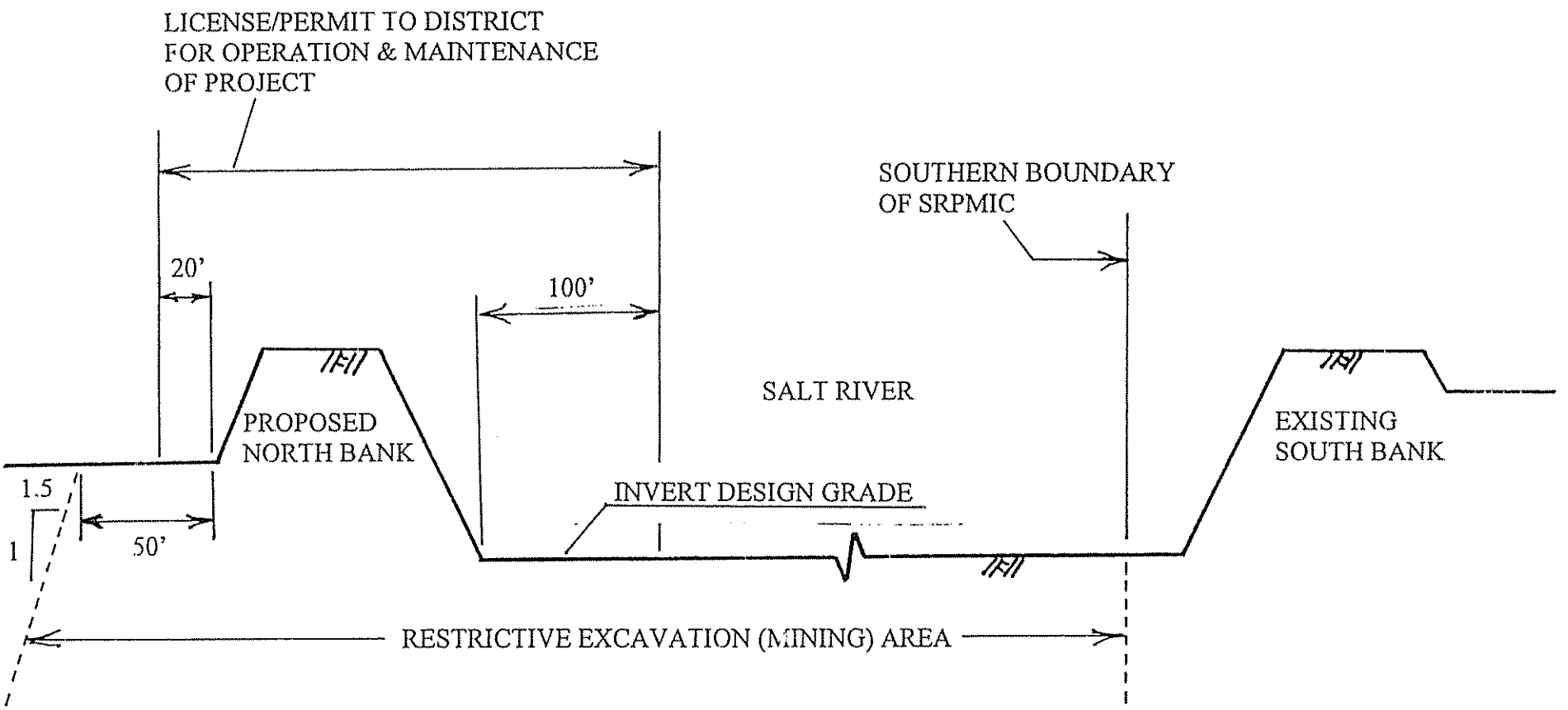
   If a sediment analysis is required, the analysis shall consider the sediment load entering the study reach. If computer software is used to analyze the sediment transport a hard copy and floppy disk with input and output files shall be submitted for District review.

4. The scour due to river bend shall be considered and added to the required bank toe depth calculation.

5. The scour due to any local obstruction (bridge pier, etc.) shall be considered and added to the required bank toe depth calculation.

EXHIBIT "C"

IGA FCD 98013



SECTION LOOKING UPSTREAM

N.T.S.

JPA 98-83

APPROVAL OF

THE SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, the FLOOD CONTROL DISTRICT MARICOPA COUNTY and the SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY, and declare this agreement to be in proper form and within the powers and authority granted to the Community under the laws of the Community.

DATED this 10th day of February, 1999.

General Counsel

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STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL
1275 WEST WASHINGTON, PHOENIX, AZ. 85007-2926

JANET NAPOLITANO
ATTORNEY GENERAL

TRN Main: (602) 542-1680
Direct: (602) 542-8837
Fax: (602) 542-3646
MAIN PHONE: (602) 542-5025
FACSIMILE: (602) 542-4085

INTERGOVERNMENTAL AGREEMENT DETERMINATION

A.G. Contract No. KR98-1454TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED June 16, 1999.

JANET NAPOLITANO
Attorney General

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

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Enc.